

# SENATE BILL No. 311

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-14-21; IC 31-19; IC 31-35-1-11.

**Synopsis:** Paternity and adoption procedures. Provides for the following requirements in paternity actions in which an adoption is pending: (1) Requires the court to conduct an initial hearing not more than 30 days after the filing of the paternity petition or the birth of the child, whichever occurs later. (2) Requires the court to order blood or genetic testing at the initial hearing, and requires the court to order the state department of health to pay for the testing under certain circumstances. (3) Requires the court to conduct a final hearing to determine paternity not later than 90 days after the initial hearing. (4) Requires the court to issue its ruling in the paternity action not more than 14 days after the final hearing. Provides that a licensed child  
(Continued next page)

**Effective:** July 1, 1999.

Clark

January 7, 1999, read first time and referred to Committee on Judiciary.



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placing agency or an attorney in an adoption shall submit to the court an affidavit setting forth the circumstances surrounding service of prebirth actual notice to a putative father, regardless of who served the notice. Requires a court to enter a default judgment against and terminate the parental rights of a parent who fails to appear at the termination hearing after being located and served with notice of the hearing. Repeals certain provisions governing unreasonable delay in paternity actions when an adoption is pending. Makes conforming amendments.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## SENATE BILL No. 311

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 31-14-21-9 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) If a court  
3 presiding over a paternity action under this article knows of:  
4 (1) a pending adoption of a child who is the subject of the  
5 paternity action; and  
6 (2) the court in which the adoption is pending;  
7 the court having jurisdiction over the paternity action shall establish a  
8 child's paternity within a ~~reasonable~~ the period **prescribed by this**  
9 **chapter.**  
10 (b) **The court shall conduct an initial hearing not more than**  
11 **thirty (30) days after:**  
12 (1) **the filing of the paternity petition; or**  
13 (2) **the birth of the child;**  
14 **whichever occurs later.**  
15 SECTION 2. IC 31-14-21-9.1 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 1999]: **Sec. 9.1. (a) At the initial hearing held under section 9 of this chapter, the court shall order all the parties to the paternity action to undergo blood or genetic testing.**

**(b) If the alleged father is unable to pay for the initial costs of the testing, the court shall order that the tests be paid by the state department of health from putative father registry fees collected under IC 31-19-2-8(2). The state department of health may recover costs from an individual found to be the biological father of the child in the action.**

SECTION 3. IC 31-14-21-9.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 9.2. Not later than ninety (90) days after the initial hearing held under section 9 of this chapter, the court shall conduct a final hearing to determine paternity. Not more than fourteen (14) days after the final hearing, the court shall issue its ruling in the paternity action.**

SECTION 4. IC 31-19-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. Unless the petitioner for adoption seeks under section 1 of this chapter to adopt a person who is at least eighteen (18) years of age, the petitioner for adoption must attach to the petition for adoption:

(1) an adoption history fee of twenty dollars (\$20) payable to the state department of health; and

(2) a putative father registry fee of fifty dollars (\$50) payable to the state department of health for:

**(A) administering the putative father registry established by IC 31-19-5; and**

**(B) paying for blood or genetic testing in a paternity action in which an adoption is pending in accordance with IC 31-14-21-9.1.**

SECTION 5. IC 31-19-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Upon the filing of a petition for adoption:

(1) the licensed child placing agency sponsoring the adoption; or

(2) the attorney representing the prospective adoptive parents;

~~who gave actual notice or caused actual notice to be given to the putative father of the child~~ shall submit to the court an affidavit setting forth the circumstances surrounding the service of actual notice, including the time, **if known**, date, and manner in which the actual notice was provided.

SECTION 6. IC 31-19-3-4 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Notice of the potential adoption under this chapter must be provided to the putative father of the child in substantially the following form:

"\_\_\_\_\_ (putative father's name), who has been named as the father of the unborn child of \_\_\_\_\_ (birth mother's name), or who claims to be the father of the unborn child, is notified that \_\_\_\_\_ (birth mother's name) has expressed an intention to secure an adoptive placement for the child.

If \_\_\_\_\_ (putative father's name) seeks to contest the adoption of the unborn child, the putative father must file a paternity action to establish his paternity in relation to the unborn child not later than thirty (30) days after the receipt of this notice.

If \_\_\_\_\_ (putative father's name) does not file a paternity action not more than thirty (30) days after receiving this notice, or having filed a paternity action, is unable to establish paternity in relation to the child ~~within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11~~ **under IC 31-14** or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action, the putative father's consent to the adoption shall be irrevocably implied and the putative father loses the right to contest both the adoption and the validity of his implied consent to the adoption. In addition, the putative father loses the right to establish paternity of the child under IC 31-14 or in a court of another state when the court would otherwise be competent to obtain jurisdiction over the paternity action.

Nothing \_\_\_\_\_ (mother's name) or anyone else says to \_\_\_\_\_ (putative father's name) relieves \_\_\_\_\_ (putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father.

For purposes of this notice, \_\_\_\_\_ (putative father's name) is a putative father under the laws in Indiana regarding adoption."

SECTION 7. IC 31-19-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Notice of the adoption proceeding required under section 3 of this chapter shall be given to an unnamed putative father in substantially the following form:

"NOTICE TO UNNAMED FATHER

The unnamed putative father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), or the person who claims to be the father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), is notified that



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a petition for adoption of the child was filed in the office of the clerk of \_\_\_\_\_ court, \_\_\_\_\_ (address of court).

If the unnamed putative father seeks to contest the adoption of the child, the unnamed putative father must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court or a paternity action under IC 31-14 within thirty (30) days after the date of service of this notice. This notice may be served by publication.

If the unnamed putative father:

(1) does not file:

(A) a motion to contest the adoption; or

(B) a paternity action under IC 31-14;

within thirty (30) days after service of this notice; or

(2) after filing a paternity action under IC 31-14 fails to establish paternity; ~~within a reasonable period as determined by the paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

the above named court shall hear and determine the petition for adoption. The unnamed putative father's consent is irrevocably implied and the unnamed putative father loses the right to contest the adoption or the validity of the unnamed putative father's implied consent to the adoption. The unnamed putative father loses the right to establish paternity of the child under IC 31-14.

Nothing \_\_\_\_\_ (mother's name) or any one else says to the unnamed putative father of the child relieves the unnamed putative father of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father."

SECTION 8. IC 31-19-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Notice of the adoption proceeding shall be given to:

(1) the putative father who is entitled to notice under section 1 or 2 of this chapter; or

(2) a named putative father under section 3 of this chapter;

in substantially the following form:

"NOTICE TO NAMED FATHER

\_\_\_\_\_ (putative father's name), who has been named the father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), or who claims to be the father of the child born to \_\_\_\_\_ (mother's name) on \_\_\_\_\_ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of \_\_\_\_\_ court, \_\_\_\_\_ (address of the court).

If \_\_\_\_\_ (putative father's name) seeks to contest the adoption

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of the child, he must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court, or a paternity action under IC 31-14 not later than thirty (30) days after the date of service of this notice.

If \_\_\_\_\_ (putative father's name):

(1) does not file:

(A) a motion to contest the adoption; or

(B) a paternity action under IC 31-14;

within thirty (30) days after service of this notice; or

(2) after filing a paternity action under IC 31-14 fails to establish paternity; ~~within a reasonable period as determined by the paternity court under IC 31-14-21-9 through IC 31-14-21-11;~~

the above named court will hear and determine the petition for adoption. His consent will be irrevocably implied and he will lose his right to contest either the adoption or the validity of his implied consent to the adoption. He will lose his right to establish his paternity of the child under IC 31-14.

Nothing \_\_\_\_\_ (mother's name) or anyone else says to \_\_\_\_\_ (putative father's name) relieves \_\_\_\_\_ (putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father. For purposes of this notice, \_\_\_\_\_ (putative father's name) is a putative father under the laws in Indiana regarding adoption."

SECTION 9. IC 31-19-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A putative father's consent to adoption is irrevocably implied without further court action if the putative father:

(1) fails to file:

(A) a motion to contest the adoption in accordance with IC 31-19-10; and

(B) a paternity action under IC 31-14;

within thirty (30) days after service of notice under IC 31-19-4;

(2) having filed a motion to contest the adoption in accordance with IC 31-19-10, fails to appear at the hearing set to contest the adoption;

(3) having filed a paternity action under IC 31-14, fails to establish paternity in the action; ~~within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11;~~ or

(4) is required to but fails to register with the putative father registry established by IC 31-19-5 within the period under



IC 31-19-5-12.

SECTION 10. IC 31-19-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The putative father's consent to adoption of the child is irrevocably implied without further court action if the father:

(1) fails to file a paternity action:

(A) under IC 31-14; or

(B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;

not more than thirty (30) days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether the child is born before or after the expiration of the thirty (30) day period; or

(2) files a paternity action:

(A) under IC 31-14; or

(B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;

during the thirty (30) day period prescribed by subdivision (1) and fails to establish paternity in the paternity proceeding ~~within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11~~ under IC 31-14 or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.

SECTION 11. IC 31-35-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. If the court makes findings of fact upon the record that:

(1) one (1) parent has made a valid consent to the termination of the parent-child relationship;

(2) the other parent:

(A) cannot be located, after a good faith effort has been made to do so; **or**

**(B) has been located but fails to appear at the termination hearing;**

(3) the other parent has been served with notice of the ~~proceedings~~ **hearing** in the most effective means under the circumstances; and

(4) the investigation that may be required by section 7 of this chapter has been completed and entered on the record;

the court may enter a default judgment against the unavailable parent and terminate as to both parents.

SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 31-14-21-10; IC 31-14-21-11; IC 31-14-21-12.



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